

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION SIX**

VINFRED INTERIOR SYSTEMS CO., INC.

Employer

and

**Case 6-RC-11999**

OPERATIVE PLASTERERS' & CEMENT  
MASONS' INTERNATIONAL ASSOCIATION  
OF THE UNITED STATES AND CANADA,  
LOCAL NO. 31, AFL-CIO, CLC

Petitioner

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, the parties entered into a Stipulation of Facts in Lieu of Representation Hearing.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to the undersigned Regional Director.<sup>1</sup>

Upon the entire record in this case,<sup>2</sup> the Regional Director finds:

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The labor organization involved claims to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

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<sup>1</sup> The parties waived the right to file a Request for Review of this Decision and Direction of Election.

<sup>2</sup> The parties waived the filing of briefs in this matter.

On July 6, 2001, the Petitioner filed the above-captioned petition pursuant to Section 9(c) of the Act seeking an election for certain employees of the Employer.

In the instant proceeding, the parties stipulated that the Petitioner is the representative, pursuant to Section 8(f) of the Act, of certain employees of the Employer and that, by the petition herein, the Petitioner is seeking to become the Section 9(a) representative of the petitioned-for employees.

The parties stipulated that the Employer is a specialty contractor in the construction industry, performing commercial construction; that it is a member of the Master Interior Contractors Association (MICA),<sup>3</sup> which is a multi-employer bargaining group, in existence since the early 1970's; that MICA is signatory to a collective-bargaining agreement with the Petitioner for the period June 1, 1998, through May 31, 2005; and that the Employer herein is bound to that agreement as a member of MICA.

The parties further stipulated that there are no eligibility issues herein and that the following petitioned-for unit is an appropriate unit for the Employer.

All full-time and regular part-time journeymen and apprentice plasterers employed by Vinfred Interior Systems Co., Inc., in Allegheny, Armstrong, Fayette, Forest, Greene, Jefferson, Lawrence, Mercer, McKean, Potter, Beaver, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Washington, Westmoreland, Warren and Venango counties; excluding office clerical employees and guards, professional employees and supervisors as defined in the Act, and all other employees.

Accordingly, based on the above and the record as a whole, I find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time journeymen and apprentice plasterers employed by Vinfred Interior Systems Co., Inc., in Allegheny, Armstrong, Fayette, Forest, Greene, Jefferson, Lawrence, Mercer, McKean, Potter, Beaver, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Washington, Westmoreland,

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<sup>3</sup> The parties stipulated that MICA is the Intervenor in this matter.

Warren and Venango counties in Pennsylvania; excluding office clerical employees and guards, professional employees and supervisors as defined in the Act, and all other employees.

### **DIRECTION OF ELECTION**

An election by secret ballot will be conducted by the undersigned Regional Director among the employees in the unit set forth above at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations.<sup>4</sup> Eligible to vote are those employees in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. In accordance with the Board's holdings in Daniel Construction Company, Inc., 133 NLRB 264 (1961), as modified 167 NLRB 1078, 1081 (1967), and Steiny and Company, Inc., 308 NLRB 1323, 1326 (1992),<sup>5</sup> I find the following individuals are also eligible to vote in the election: those individuals who were employed in the unit for either (1) a total of 30 working days or more within the 12 months immediately preceding the eligibility date for the election or (2) a total of 45 working days or more within the 24 months immediately preceding the eligibility date for the election, with some employment in the immediately preceding 12-month period, and who have not been terminated for cause or quit voluntarily prior to the completion of the last job for which they were employed by the Employer. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if

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<sup>4</sup> Pursuant to Section 103.20 of the Board's Rules and Regulations, official Notices of Election shall be posted by the Employer in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. As soon as the election arrangements are finalized, the Employer will be informed when the Notices must be posted in order to comply with the posting requirement. Failure to post the Election Notices as required shall be grounds for setting aside the election whenever proper and timely objections are filed. The Board has interpreted Section 103.20(c) as requiring an employer to notify the Regional Office at least five (5) full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice.

<sup>5</sup> The parties stipulated to the application of this eligibility formula.

they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period and employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.<sup>6</sup> Those eligible shall vote whether or not they desire to be represented for collective bargaining by Operative Plasterers' & Cement Masons' International Association of the United States and Canada, Local No. 31, AFL-CIO, CLC.

Dated at Pittsburgh, Pennsylvania, this 2nd day of August 2001.

/s/Gerald Kobell

Gerald Kobell  
Regional Director, Region Six

NATIONAL LABOR RELATIONS BOARD  
Room 1501, 1000 Liberty Avenue  
Pittsburgh, PA 15222

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<sup>6</sup> In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc. 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that the election eligibility list, containing the full names and addresses of all eligible voters, must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. The Regional Director shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office, Room 1501, 1000 Liberty Avenue, Pittsburgh, PA 15222, on or before August 9, 2001. No extension of time to file this list may be granted, except in extraordinary circumstances.